IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION No. 18404 of 2004

Between:

K.V.V. Satyanarayana, S/o Narasimha Murthy,
R/o Teeparu Village, Peraveli Mandal, West Godavari District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Secretary,
Industries and Commerce Department, Secretariat, Hyderabad.
2 The Director of Mines and Geology, BRKR Buildings, 8th Floor,
Tank Bund Road, Hyderabad.
3 The District Level Committee, rep. by its Chairman,
West Godavari District.
4 The District Panchayat Officer, West Godavari District at Eluru.
5 The Asst. Director of Mines and Geology, West Godavari District
at Eluru.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or writ one in the nature of writ of Mandamus, declaring the action of the respondents in Proceedings No. 4040/A3 P, dated 1-10-2004 in rejecting the second year lease period for quarrying at Teeparru Reach, Kanuru Agraharam, West Godavari District and notifying the area for Public Auction in notification No. 4040/2004, 5101/2004 and 5102/2004, dt.3-10-2004 as arbitrary, illegal, unjust, unconstitutional and contrary to Mines & Minerals (Development and Regulation) Act, 1957 and A.P. Minor Mineral Concession Rules, 1966 and consequently call for the records in Proceedings No. 4040/A3 P, dated
1-10-2004.

Counsel for the Petitioner : SMT.N.SHOBA

Counsel for Respondents : G.P. FOR MINES AND GEOLOGY

The Court made the following :

ORDER:

Heard the learned counsel for petitioner and the learned Government Pleader for respondents.

Assailing the impugned proceedings dated 1.10.2004 in rejecting the second year lease period for quarrying at Teeparru Reach, Kanuru Agraharam, West Godavari district, and notifying the area for public auction by proceedings dated 3.10.2004, the petitioner filed the present writ petition.

The learned counsel for petitioner submits that pursuant to the auction notice in No.5577/2003-A1 pts. dated 6.12.2003, petitioner participated in the sand quarry auction held on 23.12.2003 and being the successful bidder, was granted quarry lease by the Government of A.P. for Kanuru Agraharam Teeparru Reach vide Agreement dated 4.2.2004. It is stated that the said lease was for a period of two years and after expiry of the first year, the petitioner deposited the second year lease amount on 16.8.2004 well within the time and therefore, he is entitled to continue the quarry operations and requested the authorities to renew the lease for the second year also. Since the petitioner was called upon to stop the quarry operations, petitioner filed W.P.No.17608 of 2004 which is pending, and no interim orders were granted in the said writ petition.

In the meanwhile, third respondent in the meeting with regard to fetching more revenue by conducting public auction held on 28.9.2004, to which the petitioner also attended, resolved to conduct public auction package-wise and issued impugned proceedings dated 1.10.2004 rejecting the request of the petitioner for renewal of quarry lease for second year. Questioning the same, petitioner filed the present writ petition contending that the authorities have no power for premature determination of existing lease except for a public interest and the same is contrary to the provisions of A.P. Minor Mineral Concession Rules and that the impugned order 1.10.2004 rejecting the request of petitioner for renewal of lease is arbitrary, illegal and the

same is liable to be set aside.

Though no relief is claimed against Respondents 1, 2 and 5, for obvious reasons they are made as parties to the writ petition with a view to see that the matter is avoided before a particular Bench to whom the matters are assigned, against the order passed by the third respondent. It is nothing but choosing the forum, and such type of practice adopted by the learned counsel has to be deprecated by all concerned.

Be that as it may, the learned counsel for petitioner contends that petitioner has deposited the entire lease amount for the second year as per clause 5 of the Agreement and that the respondents are bound to renew the lease as per Amended Rule 9-B of G.O.Ms.No.1 dated 1.1.2001 which specifies that the lease is for a period of two years. In view of the same, refusing to renew the lease amounts to termination and the same is liable to be set aside.

Rule 9-B of the A.P.Minor Mineral Concession Rules, 1966 reads as under :

> "All the sand bearing areas in the State shall be leased out by Sealed Tender-cum-Public Auction reach or village wise wherever applicable by Mandal Revenue Officer or Revenue Divisional Officer or Joint Collector for a specified period in any case not more than two years with an yearly enhancement of 10% of the knocked down amount and subject to the conditions prescribed in the notice of Sealed Tender cum Public Auction as specified in Rule 9-C."

It is not in dispute that in the sealed tender-cum-public auction issued on 6.12.2003, the lease period is specified for a period of one year which is also followed by the Agreement dated 4.2.2004 wherein it was specifically mentioned that the lease period is from 21.1.2004 to 30.9.2004. Clause 5 of the Agreement which is a proforma, will come into operation only in case where lease is for a period of two years. The presumption of the learned counsel for petitioner that petitioner he is entitled to deposit the amount 45 days in advance and on such deposit, petitioner is entitled for renewal of lease is a misconceived and is contrary to the tender notification.

Having regard to the facts and circumstances of the case, the impugned order

1.10.2004 passed by the third respondent and the consequential auction notice do not suffer from any infirmities warranting interference of this Court under Article 226 of the Constitution of India. The writ petition fails and it is therefore, dismissed. No costs.

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A.GOPAL REDDY, J

Date: 13.10.2004

DA

To

1 The Secretary, Government of Andhra Pradesh,
Industries and Commerce Department, Secretariat, Hyderabad.
2 The Director of Mines and Geology, BRKR Buildings, 8th Floor,
Tank Bund Road, Hyderabad.
3 The Chairman, District Level Committee, West Godavari District.
4 The District Panchayat Officer, West Godavari District at Eluru.
5 The Asst. Director of Mines and Geology, West Godavari District
at Eluru.

6 Two CCs to the G.P. for Mines & Geology, High Court Buildings,

Hyderabad (OUT).

7 Two CD copies